

Chapter 5

Federal Facility Cleanups

Federal departments and agencies manage a variety of industrial activities at more than 27,000 installations. Due to the nature of such activities, whether they are federally or privately managed, federal installations may be contaminated with hazardous substances and are therefore subject to CERCLA requirements. Although federal facilities comprise only a small percentage of the community regulated under CERCLA, many federal facilities are larger and more complex than their private industrial counterparts and are likely to host continuing activities. Because of their size, complexity, and the existence of ongoing activities, compliance with environmental statutes may present unique management issues for federal facilities.

5.1 The Federal Facilities Program

CERCLA Section 120(a) requires that federal facilities comply with CERCLA requirements to the same extent as private facilities. Executive Order 12580 delegates the President's authority under CERCLA to federal departments and agencies, making them responsible for cleanup activities at their facilities. Federal facilities that are National Priorities List (NPL) sites have the highest priority for remediation under Superfund, and CERCLA mandates that cleanups be conducted under interagency agreements (IAGs) between EPA and relevant federal agencies. States are often a party to these agreements as well. To ensure federal facility compliance with CERCLA requirements, EPA provides technical advice and assistance and may take enforcement action when appropriate.

In addition to CERCLA, there is a range of authority and enforcement tools under state statutes that apply to non-NPL federal facility sites. Indian

tribes may also be involved in federal agency compliance with environmental regulations when acting as either lead or support agencies for Superfund response actions.

5.1.1 Federal Facility Responsibilities Under CERCLA

Federal departments and agencies are responsible for identifying and addressing hazardous waste sites at the facilities that they own or operate. They are required under CERCLA to comply with all provisions of federal environmental statutes and regulations and all applicable state and local requirements during site cleanup.

5.1.2 EPA's Oversight Role

EPA oversees federal facility cleanup activities and provides cleanup assistance to federal agencies. EPA's responsibilities include:

- listing sites on the NPL,
- negotiating IAGs,
- promoting community involvement through site-specific advisory boards and restoration advisory boards,
- selecting or assisting in the determination of cleanup remedies,
- concurring with cleanup remedies,
- providing technical advice and assistance,
- overseeing cleanup activities,

- reviewing federal agency pollution abatement plans, and
- resolving disputes regarding noncompliance.

To fulfill these responsibilities, EPA relies on personnel from Headquarters, Regional offices, and states. This includes personnel from the Federal Facilities Enforcement Office (FFEO) in the Office of Enforcement and Compliance Assurance (OECA) and the Federal Facilities Restoration and Reuse Office (FFRRO) in the Office of Solid Waste and Emergency Response.

To track the status of a federal facility, EPA uses several information systems. The Facility Index System provides an inventory of federal facilities subject to environmental regulations. Through the CERCLA Information System (CERCLIS), EPA maintains a comprehensive list of all reported potentially hazardous waste sites, including federal facility sites. CERCLIS also contains cleanup project schedules and achievements for federal facility sites. A list of federal facility sites potentially contaminated with hazardous waste, which is required by CERCLA Section 120(c), is made available to the public through the Federal Agency Hazardous Waste Compliance Docket and through routine docket updates published in the *Federal Register*.

5.1.3 The Roles of States and Indian Tribes

Under the provisions of CERCLA Section 120(f), state and local governments are encouraged to participate in planning and selecting remedial actions to be taken at federal facility NPL sites within their jurisdiction. State and local government participation includes, but is not limited to, reviewing site information and developing studies, reports, and action plans for the site. EPA encourages states to become signatories to the IAGs that federal agencies must execute with EPA under CERCLA Section 120(e)(2). State participation in the CERCLA cleanup process is carried out under the provisions of CERCLA Section 121.

Cleanups at federal facility sites not listed on the NPL are funded by the federal agency that has jurisdiction over or operates the site. Federal

agencies use the CERCLA cleanup process outlined in the National Oil and Hazardous Substances Pollution Contingency Plan at these sites, often under state or EPA oversight. In addition to CERCLA, these cleanups are subject to state laws regarding response actions. A state's role at a non-NPL federal facility site, therefore, will be determined both by that state's cleanup laws and CERCLA.

CERCLA Section 126 mandates that federally recognized Indian tribes be afforded the same treatment as states with regard to most CERCLA provisions. Thus, the role of a qualifying Indian tribe in a federal facility cleanup would be substantially similar to that of a state. To qualify, a tribe must be federally recognized; have a tribal governing body that is currently performing governmental functions to promote the health, safety, and welfare of the affected population; and have jurisdiction over a site.

5.2 Fiscal Year 1998 Progress

FFEO and FFRRO, in conjunction with other EPA Headquarters offices, Regional offices, and states, ensure federal department and agency compliance with CERCLA and Resource Conservation and Recovery Act requirements. Progress in achieving federal facility compliance may be measured by the status of federal facility sites on the Federal Agency Hazardous Waste Compliance Docket and on the NPL, and by the execution of IAGs for federal facility sites.

5.2.1 Status of Facilities on the Federal Agency Hazardous Waste Compliance Docket

Federal facilities where hazardous waste is managed or from which hazardous substances have been released are identified on the Federal Agency Hazardous Waste Compliance Docket. The docket was established under CERCLA Section 120(c) and functions as an important record in the Superfund federal facilities program. Information submitted to EPA on identified facilities is compiled and maintained in the docket and then made available to the public.

The initial federal agency docket was published in the *Federal Register* on February 12, 1988. At

that time, 1,095 federal facilities were listed on the docket. The June 27, 1997 docket update listed a total of 2,104 facilities. Of this total, the Department of Defense (DoD) owned or operated 958 (46 percent) of the facilities and the Department of the Interior (DOI) owned or operated 453 (22 percent). The remainder were distributed among 18 other federal departments, agencies, and instrumentalities.

5.2.2 Status of Federal Facilities on the NPL

To distinguish the increasing number of federal facility NPL sites from non-federal NPL sites, NPL updates list federal facility sites separately from non-federal sites. NPL updates also contain language that clarifies the roles of EPA and other federal departments and agencies with regard to federal facility sites. Consistent with Executive Order 12580 and the National Oil and Hazardous Substances Pollution Contingency Plan, EPA is typically not the lead agency for federal facility sites on the NPL; federal agencies are usually lead agencies for their own facilities. EPA is, however, responsible for overseeing federal facility compliance with CERCLA. At the end of FY98, there were 170 federal facility sites proposed to, listed on or deleted from the NPL. These sites included 9 proposed sites, 153 final sites, and 8 deleted sites.

Federal departments and agencies made substantial progress during FY98 toward cleaning up federal facility NPL sites. Activity at federal facility NPL sites during the year included the start of approximately 31 remedial investigation/feasibility studies (RI/FSs) and 61 remedial actions (RAs). During FY98, 77 records of decision (RODs) were signed, and ongoing activities included 497 RI/FSs, 71 RDs, and 206 RAs.

5.2.3 Interagency Agreements Under CERCLA Section 120

IAGs are the cornerstone of the enforcement program for federal facility NPL sites. They are enforceable documents and contain, among other things, a description of remedy selection alternatives, schedules of cleanup activities, and provisions for dispute resolution. IAGs between EPA and each responsible federal department or agency, to which

states may be signatories, address some or all of the phases of remedial activity (RI/FS, RD, RA, operation and maintenance) to be undertaken at a federal facility NPL site. IAGs formalize the schedule and procedures for submission and review of documents and include a time line for remedial activities in accordance with the requirements of CERCLA Section 120(e). They also must comply with the public involvement requirements of CERCLA Section 117.

Included in IAG provisions are mechanisms for resolving disputes between the signatories. EPA can also assess stipulated penalties for noncompliance with the terms of IAGs. The agreements are enforceable by the states, and citizens may seek to enforce them through civil suits. Penalties may be imposed by the courts against federal departments and agencies in successful suits brought by states or citizens for failure to comply with IAGs.

5.3 CERCLA Implementation at EPA Facilities

Of the 2,104 sites on the June 27 1997 Federal Agency Hazardous Waste Compliance Docket, nine were EPA-owned or operated. Of these EPA-owned or operated sites, three were listed on the NPL. As required by CERCLA Section 120(e)(5), a report on EPA cleanup progress at active facilities is provided in Section 5.3.2.

5.3.1 Requirements of CERCLA Section 120(e)(5)

CERCLA Section 120(e)(5) requires an annual report to Congress from each federal department, agency, or instrumentality on its progress in implementing Superfund at its facilities. Specifically, the annual report to Congress is to include, but need not be limited to, the following items:

- Section 120(e)(5)(A): A report on the progress in reaching IAGs under CERCLA Section 120(e)(2);
- Section 120(e)(5)(B): The specific cost estimates and budgetary proposals involved in each IAG;

- Section 120(e)(5)(C): A brief summary of the public comments regarding each proposed IAG;
- Section 120(e)(5)(D): A description of the instances in which no agreement (IAG) was reached;
- Section 120(e)(5)(E): A progress report on conducting RI/FSs required by CERCLA Section 120(e)(1) at NPL sites;
- Section 120(e)(5)(F): A progress report on remedial activities at sites listed on the NPL; and
- Section 120(e)(5)(G): A progress report on response activities at facilities that are not listed on the NPL.

CERCLA also requires that the annual report contain a detailed description, by state, of the status of each facility subject to Section 120(e)(5). The status report must include a description of the hazards presented by each facility, plans and schedules for initiating and completing response actions, enforcement status (where applicable), and an explanation of any postponement or failure to complete response actions. EPA gives high priority to maintaining compliance with CERCLA requirements at its own facilities. To ensure concurrence with all environmental statutes, EPA uses its environmental compliance program to heighten regulatory awareness, identify potential compliance violations, and coordinate appropriate corrective action schedules at its laboratories and other research facilities.

5.3.2 Progress in Cleaning Up EPA Facilities Subject to Section 120 of CERCLA

The June 27, 1997 Federal Agency Hazardous Waste Compliance Docket listed nine EPA owned or operated facilities, including three that have been listed on the NPL (Electro Voice, Michigan; Ottati & Goss, New Hampshire; and Old Navy Dump/Manchester site, Washington). Two of the sites (the Brunswick Facility in Brunswick, Georgia; and the Philadelphia Site in Philadelphia, Pennsylvania) listed previously and four of the sites (the Bay City CERT Site in Bay City, Michigan; the Electro Voice Site in Buchanan, Michigan; the Ottati

& Goss Site in Kingston, New Hampshire; and Fine Petroleum in Norfolk, Virginia) listed in FY95 may have been listed on the docket in error. EPA is currently investigating those listings. EPA has evaluated and, as appropriate, undertaken response activities at the nine EPA sites on the docket for which it is responsible, including the sites on the NPL. As required by CERCLA Section 120(e)(5), Exhibit 5.3-1 provides the status, by state, of EPA-owned or operated sites and identifies the types of problems and progress of activities at each site. EPA facilities that have undergone significant response activities in FY98 are discussed in detail below. As required for EPA-owned or operated NPL sites, the information presented below for the Old Navy Dump/Manchester NPL site provides a report on progress in meeting CERCLA Section 120 requirements for reaching IAGs, conducting RI/FSs, and providing information on the status of remedial activities.

New England Regional Laboratory, Massachusetts

An underground oil storage tank was replaced at the New England Regional Laboratory in October 1993. During excavation, the cavity left by the old tank filled with water and developed a sheen. The laboratory was given a National Pollutant Discharge Elimination System (NPDES) permit exclusion and allowed to pump the water because tank inspection and water analysis indicated that no leaks were present and no groundwater contamination occurred. The laboratory continues to improve its environment, safety, and health program with regular audits by the Safety, Health, and Environmental Management Program (SHEMP).

Electro Voice, Michigan

The Electro Voice site has been occupied by several manufacturing companies since the 1920s. Demolitions refuse was deposited in an onsite natural land depression from the 1920s to the early 1950s. Portions of Electro Voice, Inc.'s facilities have been built upon this fill. Electro Voice built two lagoons for the purpose of disposing electroplating waste in 1952. The lagoons were removed from service in 1962 and a wastewater treatment facility was installed. In 1979, an industrial sewer link broke

discharging liquid waste into the north lagoon. Electro Voice responded to this spill by treating and removing the discharge and installing a holding tank to prevent similar incidents. The lagoons were closed and backfilled in 1980. In 1987, EPA and Electro Voice entered into a Consent Order requiring the company to carry out a feasibility study of site contamination. The study was completed by EPA in September 1991. Final remedies were selected for the lagoon area, onsite groundwater, and dry well area soils (OU1). The remedial design was completed in FY96 along with the excavation of contaminated soil and construction of a clay cap. In FY98, the soil ventilation and volatilization system continued to operate in the drywell area and the final remedial action report for OU1 was approved by EPA. The

PRP developed a workplan for additional off-property investigation for OU2 to be approved by EPA. Additional field work was conducted in fall 1998.

Ottati & Goss Superfund Site, New Hampshire

The Ottati & Goss Superfund site is not considered a federal facility and may have been placed on the docket in error. The site was used by several companies and corporations for the purposes of drum reconditioning operations from 1959 until 1980. The site was then used by Ottati & Goss from March 1978 until July 1979 as a hazardous materials

**Exhibit 5.3-1
Status of EPA Facilities on the Federal Agency Hazardous Waste Compliance Docket¹**

| State | EPA Facility | Known or Suspected Problems | Project Status |
|-------|--|---|---|
| MA | New England Regional Laboratory | No contamination | Pollution prevention plan continues |
| MI | Electro Voice | Electroplating waste contamination | Final remedial action report approved for OU1, workplan for OU2 submitted by PRP for EPA approval |
| NH | Ottati & Goss Superfund Site | Groundwater, soil, and sediment contamination | Changed contractor, sampling continued |
| NJ | EPA Edison Facilities (formerly known as the Raritan Depot) | No contamination that poses a threat to the environment | Continuing investigations |
| VA | Fine Petroleum | Decaying containers of hazardous materials | Complaint filed by EPA for cost recovery, site investigation results in NFRAP |
| WA | Old Navy Dump/Manchester NPL Site (formerly known as the Region 10 Environmental Services Division Laboratory) | Soil and sediment contamination attributable to DoD ownership | ROD in design stage, remedial actions proposed for both parts of site |

¹ This list does not include the following 17 EPA facilities where remedial activities have been completed, that have been conditionally exempt from PA requirements, or may have been placed on the docket in error: Andrew W. Breidenback Environmental Research Ctr., Ann Arbor Motor Vehicle Lab., Brunswick Facility, Casmalia Resources, Center Hill Hazardous Waste Engineering Research Lab., Central Region Laboratory-MD, Combustion Research Facility-AR, Corvallis Environmental Research Lab., Houston Laboratory, Mobile Incinerator-Demmry Farm, National Enforcement Investigation Ctr., Philadelphia Site, Region 5 Environmental Services Division Lab., Region 7 Environmental Services Division Lab., Technology Center-NC, Testing and Evaluation Facility-OH, and Washington Headquarters.

Source: Federal Agency Hazardous Waste Compliance Docket and the Office of Administration and Resource Management.

processing and storage facility. An RI/FS conducted in 1986 revealed that groundwater under the site was contaminated well above drinking water standards. The investigation also found a significant amount of contaminated soil and sediment. EPA conducted emergency removal actions at the site between December 1980 and July 1982. PRPs performed partial soil cleanup remediation at the site in 1989. The remedial design was completed in FY96 and a feasibility study was initiated. Alternatives to the incineration remedy selected in the ROD for treatment of VOC and PCB-contaminated soil were considered in FY97. An alternative evaluation concluded that thermal desorption would be more cost effective than incineration. The remedy will use thermal desorption for the remaining soil remediation. The site contractor was switched in FY98 and additional sampling occurred both in Country Pond Marsh and at the site itself.

EPA Edison Facilities, New Jersey

The EPA Edison Facilities site was formerly the Raritan Depot, which was managed by DoD and used for munitions testing and storage. In 1963, the General Services Administration (GSA) took possession of the property and, in 1988, transferred approximately 200 acres of the site to EPA. Although residual contamination from past DoD and GSA activities at the facility persists, EPA has not stored, released, or disposed of any hazardous substances on the property. A site inspection was conducted in FY91, following the discovery of a contaminated surface-water impoundment. The investigation resulted in the implementation of interim cleanup actions. Response activities have included spraying a rubble pile containing asbestos with a bituminous sealant; removing the liquid in the surface impoundment, excavating soil, installing a liner, and backfilling the impoundment with clean material; excavating and storing munitions; and removing underground storage tanks. EPA expects that DoD will pursue additional cleanup work at the site.

Fine Petroleum, Virginia

The Fine Petroleum/Mariner HiTech site has been a paint and paint-related product recycling facility since the late 1960s. Approximately 13,000

containers with capacities ranging from 1 quart to 55 gallons were discovered in varying stages of decay in a field on the approximately 3-acre property. EPA performed a sampling assessment in July 1992 leading to a removal action in 1993 in which 26,330 gallons of paint and paint-related materials were removed. In May 1995, a fire occurred at the sole building on the property which housed numerous containers of hazardous substances. Following the fire, engineer evaluations indicated the warehouse to be structurally unsound. A runoff barrier was erected and air monitoring was conducted around the perimeter of the building's remains. A total of 365, 55-gallon drums of reportable quantity wastes, approximately 1,120 cubic yards of non-hazardous demolition debris, and 916 tons of non-hazardous, petroleum-impacted soil were removed during this 1995 event. The site began the cost recovery stage in FY96. EPA performed a site investigation in FY97 and the site was given a status of no further remedial action planned (NFRAP). A complaint was filed with the Eastern District Court of Virginia by EPA on November 27, 1996 against Fine Petroleum Company, Inc. for recovery of response costs. Over \$1.6 million was sought in February 1998 by a proposed consent decree.

Old Navy Dump/Manchester NPL Site, Washington

EPA acquired this former Navy site from DoD in 1970 and constructed an environmental testing laboratory in 1978. The property is also used for two other environmental laboratories run by the National Marine Fisheries Service and the Washington State Department of Ecology. The property adjacent to the laboratories had been used by the Navy to conduct firefighting training exercises, maintain metal anti-submarine nets, and serve as a Navy landfill. Investigations revealed that in the 1940s and 1950s, the Navy had used a lagoon on the property to dispose of metal debris and other waste from the nearby Bremerton Naval Shipyard. Also, chemical residues from the Navy firefighting training school had been allowed to drain into the ground. In FY93, a preliminary assessment and site inspection of the property revealed the presence of hazardous substances in the soil, sediment, and surface-water run off. In January 1994, EPA proposed the site to the NPL, and in June 1994, it was listed on the NPL.

Because the site is a former Navy site, the Defense Environmental Restoration Program for Formerly Used Defense Sites (FUDS) will provide funding for evaluating and correcting the hazardous conditions. Negotiations for an IAG for site cleanup were initiated in July 1994. During FY97, the Seattle District of the U.S. Army Corps of Engineers (USACE) was authorized under DoD's Environmental Restoration Program for FUDS to perform an RI/FS of the Old Navy Dump/Manchester NPL Site (FUDS Site No. F10WA011900) and to prepare a proposed plan and ROD. The RI/FS was completed in December 1996. The Proposed Cleanup Plan, started in October 1994, was concluded in April 1997. The ROD was signed in September 1997, by the USACE and EPA with the consent of the Washington State Department of Ecology and is in the design stage. The remedy at the landfill involves isolating the contamination, capping the landfill, and protecting it from erosion. The remedy at the firefighting school is aimed at removing the dioxins and closing out underground storage tanks (USTs).

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